

13973, A
RECORDATION NO. Filed 1425

FEB 15 1983 - 1 25 PM
INTERSTATE COMMERCE COMMISSION

Excel Transnational, Inc.
2601 West 22nd Street
Oak Brook, Illinois 60521

ICC Washington, D. C.

Date 2/15/83
Fee \$ 100.00

August 24, 1982

RECORDATION NO. 13973 Filed 1425

FEB 15 1983 - 1 25 PM

INTERSTATE COMMERCE COMMISSION

Agatha L. Mergenovich, Secretary
Interstate Commerce Commission
Washington, D.C. 20423

- RE: 1) Conditional Sales Contract dated December 30, 1981,
between Michels Leasing Investors I and Excel
Transnational, Inc.
- 2) Bailment Agreement and Assignment of Lease, dated
December 30, 1981, between Michels Leasing Investors I and
Excel Transnational, Inc.

Dear Ms. Mergenovich:

Pursuant to 49 U.S.C. Section 11303 and the Commission's rules and
regulations thereunder, enclosed for filing on behalf of Excel
Transnational, Inc., are one original and one fully-conformed copy
of the following Primary documents:

1. Conditional Sales Contract dated as of December 30, 1981,
between Michels Leasing Investors I and Excel
Transnational, Inc.
2. Bailment Agreement and Assignment of Lease dated as of
December 30, 1981, between Michels Leasing Investors I and
Excel Transnational, Inc.

The names and addresses of the parties to the aforementioned
Conditional Sales Contract and Bailment Agreement and Assignment of
Lease are:

1. PURCHASER - BAILOR:

Michels Leasing Investors I
~~1011 Heather Lane~~ 13555 Bishops Court, Suite 319
Brookfield, Wisconsin 53005

2. SELLER - BAILEE:

Excel-Transnational, Inc.
2601 West 22nd Street
Oak Brook, Illinois 60521

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Please file and record the documents referred to in this letter and index them under the name of the Purchaser-Bailor and the Seller-Bailee.

The equipment subject to the Conditional Sales Contract and the Bailment Agreement and Assignment of Lease is described in Exhibit A to the Conditional Sales Contract and consists of one hundred five (105) Covered Hopper Railcars with the following marks and serial numbers:

<u>MARKS</u>	<u>SERIAL NO.</u>	<u>MARKS</u>	<u>SERIAL NO.</u>	<u>MARKS</u>	<u>SERIAL NO.</u>
800752	48846	800787	48909	800823	49564
800753	48847	800788	48910	800824	49565
800754	48851	800789	48911	800825	49566
800755	48852	800790	48914	800826	49567
800756	48853	800791	48917	800827	49568
800757	48854	800792	48918	800828	49569
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800761	48859	800796	48925	800832	49625
800762	48860	800797	48926	800833	49626
800763	48861	800798	48927	800834	49627
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800770	48876	800805	48936	800842	49637
800771	48877	800806	48939	800843	49638
800772	48880	800807	48940	800844	49639
800773	48884	800808	48942	800856	50802
800774	48886	800809	48943	800857	48755
800775	48889	800810	48944	800858	50819
800776	48890	800811	48971	800860	50824
800777	48891	800812	48972	800862	48873
800778	48893	800813	48975	800863	50854
800779	48896	800814	48976	800864	50856

Agatha L. Mergenovich
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Page Three

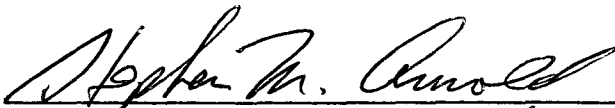
<u>MARKS</u>	<u>SERIAL NO.</u>	<u>MARKS</u>	<u>SERIAL NO.</u>	<u>MARKS</u>	<u>SERIAL NO.</u>
800780	48898	800815	48987	800865	50896
800781	48899	800817	49558	800866	50897
800782	48901	800818	49559	800867	50898
800783	48904	800819	49560	800868	50899
800784	48906	800820	49561	801040	50821
800785	48907	800821	49562	801041	50839
800786	48908	800822	49563	801042	50892

There is also enclosed a check for \$100.00 payable to The Interstate Commerce Commission, representing the fee for recording the Conditional Sales Contract and Bailment Agreement and Assignment of Lease.

Please stamp each of the enclosed documents with your official recording stamp. Please retain the copy of the instruments for your files and deliver the time-stamped originals to Mr. Thomas Kelly, Pedersen & Houpt, Suite 3400, 180 North LaSalle Street, Chicago, Illinois, 60601.

Very truly yours,

EXCEL TRANSNATIONAL, INC.

By: 
Secretary

ET/sh
Enclosures

CONDITIONAL SALE CONTRACT

13973
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INTERSTATE COMMERCE COMMISSION

Purchaser's Name MICHEL'S LEASING INVESTORS I

Address 13555 Bishops Court, Suite 319
(If corporation or partnership, give location
of principal place of business in State. If
individual, give residence.)

Date:
Dec. 30, 1981

City Brookfield County of Waukesha State Wisconsin 53005, 19

To EXCEL Transnational, Inc.
(Name of Seller)

2601 W. 22nd Street, Oak Brook, IL 60521
(Address of Seller)

The undersigned (hereinafter referred to as Purchaser) whose name and address are given above, hereby agrees on the terms and conditions described herein to purchase the equipment described below:

Quantity	Serial Number	Description	Purchase Price
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105 Covered Hopper Railcars identified on Exhibit A hereto for a purchase price of \$ 17,600 per car (or an aggregate purchase price of \$ 1,848,000).

The Purchaser agrees to pay the Seller the total purchase price as follows:

John T. 100
(a) ~~\$400~~ \$1,000 per car (or an aggregate of \$ 105,000) payable to the Seller upon execution of this Conditional Sale Contract;

(b) \$600 per car (or an aggregate of \$ 63,000) payable to the Seller in cash on June 30, 1982;

(c) \$ 3,580 per car (or an aggregate of \$ 375,900), together with interest at the rate of 15% per annum from and after the date of this Conditional Sale Agreement, payable to the Seller in 22 equal monthly installments of \$ 185 (principal and interest), payable on the first day of each month commencing January 1, 1982 (with additional interest on any overdue installment at 15% per annum commencing 90 days after the due date thereof), and

(d) \$ 12,420 per car (or an aggregate of \$ 1,304,100), together with interest at the rate of 15% per annum from and after the date of this Conditional Sale Contract, payable in full on 10/31/83 in a single payment (principal and interest) of \$ 16,323 per car; provided that recourse of the Seller for payment of the portion of the purchase price described in this subparagraph (d) (but not for payment of the portions of the purchase price described in paragraphs (a) through (c) above) shall be limited to the Cars purchased hereunder.

Title to said equipment and any replacements, additions and accessions thereto shall remain in Seller or Seller's assigns, irrespective of any retaking and redelivery thereof to Purchaser, until the indebtedness due hereunder is fully and timely paid in lawful money of the United States in compliance with the foregoing and until all other obligations hereunder are fully performed, at which time only shall ownership pass to Purchaser..Said equipment shall remain chattels and personal property at all times and shall not become part of any realty or freehold.

Purchaser's principal place of business is as given above, and Purchaser agrees to notify Seller by registered mail at Seller's address given below at least ten days before changing the location of its principal place of business.

Purchaser further agrees to execute any documents, including a new agreement containing terms substantially similar to this agreement, if Seller deems it necessary in order to protect its rights and priority after such removal. Purchaser agrees that the equipment will not be used for any unlawful purpose.

If at any time Purchaser should become insolvent, or make or attempt or agree to make any general assignment for the benefit of creditors or if any bankruptcy proceedings are at any time commenced either by or against Purchaser, or if Purchaser disposes of or encumbers any or allof said equipment or attempts to do so, or if for any reason or cause any or all of said equipment is attached or subjected to lien of any kind, or if Purchaser should fail to make any of the payments herein provided or fail to perform any or all of the other provisions hereof, either in the manner or within the time herein specified, or both, then in any one or more or all of such cases, and without any demand of notice whatsoever to Purchaser, and without any writing or other formality, or particular act or conduct being required of Seller, at any time or at all, other than those specifically required by law and which under the law cannot be waived by Purchaser. Seller may in its sole discretion and at its option: Declare all unpaid amounts immediately due and payable and sue therefore without passing title to the equipment and without waiving Seller's title to the equipment or Seller's right to retake the equipment or to exercise any other remedy reserved to Seller hereunder or provided by law; or retake immediate possession of said equipment, remove the same to Seller's address shown above, or to such other place as Seller may deem most safe and convenient, and resell the same at such place or wherever else is deemed most convenient at one or more private or public sales at such time or times, and in such manner and under such conditions as Seller may deem advisable, with or without the said equipment being present (at which sale Seller or Seller's assigns may be purchaser and which sale may be for cash and/or credit and/or goods); and after deducting all lawful expenses (including but not limited to expenses of retaking, repairing, holding and reselling said equipment, together with reasonable attorneys' fees and court costs incurred therein, and the actual amount of any sales commission incurred by Seller in connection with such sale not to exceed 10% of the sale price, or such of these as are permitted by law), credit the net proceeds thereof to the unpaid balance due under this agreement, and Purchaser agrees to pay Seller of Seller's assigns any difference or deficiency remaining due hereunder after such sale is completed and the net proceeds so

applied, provided, however, that if the net proceeds of such sale exceed the unpaid balance under this agreement, such excess shall be paid to Purchaser; or retake immediate possession of said equipment, in which event, at Seller's option (and still without any notice, declaration, formality or other particular act or conduct being required of Seller other than those specifically required by law and which under the law cannot be waived by Purchaser), all of Purchaser's right, title and equity in, to and under said equipment and this agreement shall cease and terminate, and Seller shall forthwith be released from all obligations to transfer title or possession of said equipment to Purchaser, and all sums theretofore paid by Purchaser hereunder shall be and remain Seller's property, not as a penalty but as part compensation for Purchaser's prior use of said equipment and for the depreciation thereof. In addition to the remedies specifically provided for under this agreement, Seller may at its option take advantage of any additional remedies available under the applicable laws and statutes, provided always that Seller shall abide by and follow all remedies or procedures which are made mandatory by applicable laws and statutes. Pursuant to the foregoing Purchaser hereby promises, covenants, agrees, warrants and represents that Purchaser shall yield and surrender possession of said equipment to Seller or Seller's assigns promptly upon demand; and that any such retaking of possession of said equipment by Seller or Seller's assigns may be done or effected, with or without legal process, wherever the same may be found and without any inability to Seller. Seller's agents, employees, or assigns for trespass, from which liability, Purchaser hereby expressly agrees to hold Seller, Seller's agents, employees and assigns forever free and harmless; and Seller may take possession of any article or articles in said equipment and Purchaser agrees to give Seller notice by registered mail within 24 hours after Seller retakes possession of said equipment of any claim or interest in the articles, and failure to do so shall constitute a waiver and a bar to any subsequent claim for the return of any of said articles, and Seller may hold and dispose of said articles in the same manner as the equipment, and Purchaser waives, on his own behalf and agrees to indemnify and save harmless the Seller against any claims for damages by reason of the taking, storage or sale of any such article or articles; and that in the event of any delinquency in the payment of any one or more installments hereunder, interest on each past due installment shall accrue after its due date at the highest rate permitted by law, or, if not permitted by law, Purchaser shall pay Seller or Seller's assignee delinquency and collection charges at the highest lawful rate; and that in the event of any such delinquency, Purchaser shall pay Seller or Seller's assignee all reasonable collection expenses incurred or paid by Seller or Seller's assignee, including attorney's fees, if referred to an attorney not a salaried employee of the holder of this contract for collection, and court costs, if permitted by law. If any action or litigation or proceeding is at any time brought by Seller against Purchaser, or by Purchaser against Seller, in which any of the rights, interests, liabilities and obligations of Seller or Purchaser, or both Seller and Purchaser, under this agreement shall in any way be or become an issue, and if Seller shall prevail in whole or in part therein, then Purchaser shall pay to Seller on demand Seller's reasonable attorney's fees, costs and reasonable additional expenses incurred therein, if permitted by law, and in every case in which Seller recovers judgment therein, such attorney's fees, costs and expenses may be made and become a part of such judgment. If at any time Seller shall deem it necessary in order to protect its rights and/or priority under or by virtue of this agreement, to institute or intervene in any litigation or proceeding, or if Seller shall be made a part, to any litigation or proceeding in any way involving this agreement, the

said equipment, or Seller's or Purchaser's respective rights hereunder or if Seller shall be required, or deem it necessary in order to protect its rights hereunder, to respond or answer to, compromise, settle, or negotiate for the settlement, or compromise of any claim or demand by any person which is or may become a lien upon all or any part of said equipment, including claims for tax, or other public charges by any state or bona fide political entity, then Purchaser agrees to promptly pay and reimburse Seller for all costs hereof, together with reasonable charges and expenses, including attorney's fees, if permitted by law, incurred or paid by Seller or imposed upon Seller as a result thereof or in connection therewith.

This agreement is not assignable by Purchaser except by and with the written consent of Seller and/or Seller's assigns, and all of the terms and conditions herein contained shall apply to and bind Purchaser's heirs, executors, administrators, successors, assigns and legal representatives and shall inure to the benefit of Seller's successors and assigns. Seller's acceptance of any installment or payment after it or the full amount hereof may have become due and payable hereunder or, except as provided therein, the granting of renewals or extensions shall not be deemed to alter or affect Purchaser's obligations or Seller's rights hereunder. Waiver or condonation of any breach or default shall not constitute a waiver of any other or subsequent breach or default. Purchaser admits notice of Seller's intended assignment of this agreement and agrees to settle all claims against Seller, directly with Seller. Seller hereby agreeing to remain responsible therefore.

It is understood and agreed that Purchaser may be required to give its promissory note or notes or trade acceptances for the installment payments due hereunder, but that such notes or trade acceptances shall merely be evidence of Purchaser's contractual obligations hereunder and shall not be given by Purchaser nor accepted by Seller as payment thereof or any part thereof or in lieu of any part of Purchaser's contractual obligation hereunder or as a waiver of any of the express terms hereof.

Any monies hereafter paid to Seller by Purchaser or on Purchaser's behalf may be applied by Seller to the installment or obligation hereunder earliest in date of maturity or longest overdue, or upon any other obligation or obligations (secured or unsecured) then due to Seller from Purchaser upon or in connection with any other separate and distinct transaction or transactions in Seller's sole discretion and without the necessity of notice, election, or proof, and Purchaser hereby expressly waives any right Purchaser may have, insofar as permitted by law, to make or manifest any binding direction upon or to Seller as to the manner of application of such payment of such monies other than as herein provided.

Any notice provided for in this agreement or by law, to be given to Purchaser, addressed to Purchaser's last known address shall be conclusively deemed to have been given and received by Purchaser on the day the same was mailed.

It is understood that Seller or Seller's assigns shall not be bound by any oral agreements, guarantees, representations or warranties, past, present or future, representing said equipment or Purchaser's obligations hereunder not contained in this agreement which Purchaser has read and understands, and that future modifications hereof may be made only in writing signed by Seller. Seller may correct parent errors herein Purchaser represents that no credit except that set forth herein has been made or is to be made.

The risk of loss of said equipment shall be on the Purchaser. The loss, injury or destruction of the equipment shall not release Purchaser from any of Purchaser's obligations hereunder. Purchaser agrees to assume all responsibility and all liability arising from the possession, and or operation of the equipment either for negligence or otherwise, by whomsoever used or operated and agrees to indemnify and save Sellers harmless from all claim of all persons and entities, arising out of or in any manner connected with the possession, use or operation of the equipment described above.

Purchaser expressly waives all exemptions and Homestead laws.

Time is of the essence of this agreement. Purchaser, if more than one person or entity, agrees that the obligation to perform each of the conditions and provisions of this agreement shall be joint and several.

It is agreed that each condition and provision contained in this agreement shall be divisible and separate from all other conditions and provisions and if any conditions or provisions are prohibited by law, it is the express intention of the parties hereto that such conditions or provisions shall be inoperative without impairing or invalidating any other condition or provision.

This agreement may be executed, acknowledged and delivered in any number of counterparts each of which shall be deemed to be an original.

All rights of the Seller in, to and under this agreement and in and to the equipment shall pass to and may be exercised by any assignee thereof. The Purchaser agrees that if the Seller gives notice to the Purchaser (a) of an intended assignment of said rights and thereafter such an assignment is made or (b) of such assignment having been made, then, in either event, the liability of the Purchaser to the assignee shall be immediate and absolute and the Purchaser will not set up any claim against the Seller as a defense, counterclaim or set-off to any action brought by any such assignee for the unpaid balance owed hereunder or for possession of the Goods.

It is understood and agreed that the sale of the equipment is on an "AS IS" and "WHERE IS" basis, and Seller neither assumes or authorizes any person to assume for it any liability of any kind whatsoever in connection with such sale. It is further understood and agreed that Seller shall not be liable for any indirect or consequential damages of any kind whatsoever.

IN WITNESS WHEREOF, Purchaser has caused this Agreement to be signed by its duly authorized officers as of the date first above written.

EXCEL Transnational, Inc

By Tony D. Sly

Its CEO

(Corporate Seal)

Attest

Robert M. Arnold

Accepted:

MICHELS LEASING INVESTORS I

By Michels Financial Corporation

Its General Partner

By James D. Maddry

Its CEO

(Corporate Seal)

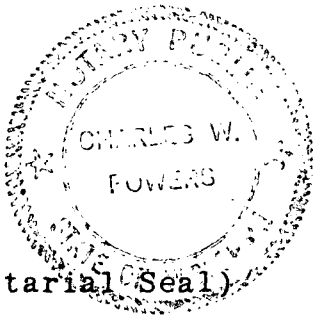
Attest

Richard J. Johnson

STATE OF Wisconsin)
) SS.
COUNTY OF Waukesha)

On this 30th day of December, 1981, before me personally appeared James D. Maddry, to me personally known who being by me duly sworn, says that he is a Chief Executive Officer of MICHELS FINANCIAL CORPORATION that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Charles W. Power
Notary Public



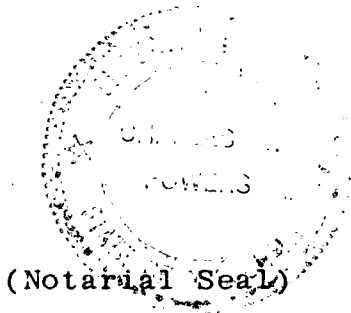
My Commission Expires:

MAY - 6 1981

STATE OF WIS.)
) SS.
COUNTY OF WAUKESHA

On this 30th day of December, 1981, before
me personally appeared Terry D. Gingle, to me
personally known who being by me duly sworn, says that he is a
Chief Executive Officer of EXCEL TRANSNATIONAL, INC. that
one of the seals affixed to the foregoing instrument is the corporate
seal of said corporation and that said instrument was signed and seal-
ed on behalf of said corporation by authority of its Board of Directors
and he acknowledged that the execution of the foregoing instrument was
the free act and deed of said corporation.

Charles W. Powers
Notary Public



My Commission Expires:

May 6, 1984

EXHIBIT A

RIDER 5 - 105 CARS

<u>MARKS</u>	<u>SERIAL NO.</u>	<u>MARKS</u>	<u>SERIAL NO.</u>	<u>MARKS</u>	<u>SERIAL NO.</u>
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